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OFFICE OF PETITIONS

In re Patent No. 6,076,044
Issue Date: June 13, 2000
Application No. 09/246,784
Filed: February 1, 1999
Patentee(s) Anthony Brown

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed August 2, 2005, to accept the delayed payment of a maintenance fee for the above-identified patent. This is also a decision on the petition filed under 37 CFR 1.183, which is properly being treated as a petition under 37 CFR 1.182, to expedite the handling of the instant petition. Accordingly, the \$400 petition fee has been charged to petitioner's deposit account, as authorized.

The petition under 37 CFR 1.182 is GRANTED.

The petition under 37 CFR 1.378(c) is DISMISSED.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(I)(2). This petition lacks item (1) above.

The record shows that LaCrosse Technologies, Ltd. was responsible for paying the maintenance fee for the above patent when the payment was due to avoid expiration. Therefore, petitioner must provide a statement from LaCrosse Technologies, Ltd. explaining why action was not timely taken to prevent the patent from becoming expired.

Petitioner is advised to send a letter (accompanied by a copy of this correspondence) to LaCrosse Technologies, Ltd. at 1116 South Oak Street, La Crescent Minnesota 55947, by certified or registered mail (return receipt requested) indicating that the Patent and Trademark Office is requesting assistance in ascertaining the cause of the expiration of the patent, and that the U. S. Patent and Trademark Office is requesting that LaCrosse Technologies, Ltd. provide within a specified period (*e.g.*, one month) a statement ascertaining that the delay in paying the maintenance fee was unintentional. Petitioner is advised that in the event that LaCrosse Technologies, Ltd. does not provide such a statement, petitioner should submit a copy of such letter and the return receipt. However, the submission of the letter and return receipt does not imply that the petition will be granted.

LaCrosse Technologies, Ltd. was the assignee at the time of expiration, LaCrosse Technologies, Ltd. must comply with the requirements of 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is

established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank Statement under 37 CFR 3.73(b) is enclosed with this decision.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.


Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
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Post Office Box 1450
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By Hand: Customer Service Window
Randolph Building
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By Fax: Attn: Office of Petitions
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Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.


Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy